

ESTTA Tracking number: **ESTTA722334**

Filing date: **01/22/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91225378
Party	Defendant TRB Acquisitions LLC
Correspondence Address	Michelle Mancino Marsh Arent Fox LLP 1675 Broadway New York, NY 10019 tmdocket@arentfox.com
Submission	Motion to Extend
Filer's Name	Michelle Mancino Marsh
Filer's e-mail	tmdocket@arentfox.com, Michelle.Marsh@arentfox.com, lindsay.korotkin@arentfox.com
Signature	/MM/
Date	01/22/2016
Attachments	TRB Motion for extension.pdf(31259 bytes)

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

ADIDAS AG, ADIDAS
INTERNATIONAL MARKETING B.V.,
and REEBOK INTERNATIONAL
LIMITED,

Opposer,

v.

TRB ACQUISITIONS LLC,

Applicant.

Opposition No.: 91225378

Application No.: 86/674,663



Mark: **RBX**

**MOTION FOR EXTENSION OF TIME TO ANSWER OR OTHERWISE RESPOND TO
NOTICE OF OPPOSITION**

Applicant, TRB Acquisitions LLC, located at 34 West 33 Street, New York, New York 10001, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, Rule 2.116(a) of the Trademark Rules of Practice, and TBMP § 509.01(a), respectfully requests for an extension of its deadline to answer or otherwise respond to the Notice of Opposition. This Motion is submitted in good faith and Applicant submits that good cause exists for the extension.

Relevant Facts

The facts relevant to this Motion are as follows:

1. On December 16, 2015, Opposer filed a Notice of Opposition against Applicant's U.S. Trademark Application Number 86/674,663 ("Opposition").
2. Applicant's deadline to Answer in this Opposition is Monday, January 25, 2016.

3. On December 16, 2015, Opposer also filed Petitions to Cancel Applicant's U.S. Trademark Registration Numbers Mark 4,466,856; 4,466,857; 4,664,665; 4,721,054; 4,721,056; 4,724,666 in Cancellation Number 92062918 ("Cancellation").
4. Applicant did not receive notice of the Cancellation via first class mail and only received notice from the Board on Tuesday, January 19, 2016.
5. On Tuesday, January 19, 2016, Opposer's counsel became aware that Applicant had not received prompt notice of the Cancellation and provided a courtesy copy to counsel for Applicant. Additionally, Opposer approached Applicant's counsel to propose filing a joint consented motion in this case and the Cancellation. Applicant is now considering the proposal.
6. Applicant's counsel contacted Opposer's counsel (via email and by telephone) to request consent for a brief two week extension of its time to answer or otherwise respond in this Opposition in order to consider the proposed joint motion and in light of the delay in receiving notice of the Cancellation filings. Additionally, Applicant's authorized representative is presently out of the country, thereby delaying communications.
7. Furthermore, as of the date of this motion, Applicant's counsel has been unable to reach Opposer's counsel to confirm their consent to the request for the two week extension of the Answer deadline in this Opposition.
8. An impending blizzard is scheduled to reach the New York City area (where Applicant's counsel is located) starting Saturday morning and is expect to run through the end of weekend.¹

¹ "The National Weather Service has issued a Blizzard Warning for all of New York City starting Saturday morning at 4 AM and until Sunday afternoon at 12 PM. A Coastal Flood Warning is also in effect for parts of NYC. The system is forecast to bring heavy snow along with strong and potentially damaging winds, and will create slick and hazardous travel conditions. Total snow accumulation is expected to be between 12 to 18 inches. The City has issued a hazardous travel advisory for Saturday, January 23, through Sunday, January 24." *Severe Weather*, NYC.gov, <http://www1.nyc.gov/site/severeweather/index.page> (retrieved Jan. 22, 2016, 8:23 PM).

9. Applicant now seeks to file this Motion in an abundance of caution as local power outages may affect its ability to further communicate with Opposer's counsel this weekend or on the Monday deadline.

Motion

10. Applicant hereby moves the Board, under Federal Rule of Civil Procedure 6(b), Rule 2.116(a) of the Trademark Rules of Practice, and TBMP § 509.01(a), for a fourteen (14) day extension of the deadline to answer or otherwise respond in this Opposition.

11. The Board is authorized to extend deadlines upon motion by a party made in good cause. See Fed. R. Civ. P. 6(b); TMBP § 509.01(a). The Board routinely and liberally grants motions to extend "so long as the moving party has not been guilty of negligence or bad faith and the privilege of extensions is not abused." *Am. Vitamin Prods., Inc. v. Dowbrands, Inc.*, 22 U.S.P.Q.2D 1313, 1992 WL 88051, at *3 (T.T.A.B. 1992).

12. As detailed in the above discussion, Opposer has just this week proposed a joint motion that may impact this proceeding and Applicant is diligently considering the proposal. Additionally, Applicant's authorized representative is presently out of the country. Furthermore, Applicant's counsel is facing a blizzard which may interfere with its ability to further communicate with Applicant or Opposer's counsel this weekend or on its Monday deadline.

13. This Motion is made in good faith to allow Applicant sufficient time to consider the Opposer's proposed joint motion in this Opposition and Opposer shall not be prejudiced in any way by this brief extension. Applicant does not seek an extension of time for purposes of delay.

14. Applicant proposes that the deadlines for this Opposition be extended as follows:

Time to Answer	2/8/2016
Deadline for Discovery Conference	3/9/2016
Discovery Opens	3/9/2016
Initial Disclosures Due	4/8/2016
Expert Disclosures Due	8/6/2016
Discovery Closes	9/5/2016
Plaintiff's Pretrial Disclosures	10/20/2016
Plaintiff's 30-day Trial Period Ends	12/4/2016
Defendant's Pretrial Disclosures	12/19/2016
Defendant's 30-day Trial Period Ends	2/2/2017
Plaintiff's Rebuttal Disclosures	2/17/2017
Plaintiff's 15-day Rebuttal Period Ends	3/19/2017

Conclusion

For the reasons set forth above, Applicant respectfully requests that the Board grant its motion for an extension of its deadline to Answer or otherwise respond to the Notice of Opposition by fourteen (14) days.

Dated: January 22, 2016

ARENT FOX, LLP
Attorneys for Applicant
TRB Acquisitions LLC

By: 

Michelle Mancino Marsh
1675 Broadway
New York, New York 10019
Tel: 212.484.3977
Fax: 212.484.3990

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **APPLICANT'S MOTION FOR EXTENSION OF TIME TO ANSWER OR OTHERWISE RESPOND TO NOTICE OF OPPOSITION** was served upon the following attorneys of record for Opposers Adidas Ag, Adidas International Marketing B.V., and Reebok International Limited, by email and U.S. Mail, this 22nd day of January, 2016:

Charles H. Hooker, III
Kilpatrick Townsend & Stockton LLP
1100 Peachtree Street, N.E.Suite 2800
Atlanta, GA 30309
UNITED STATES

CHenn@kilpatricktownsend.com, chenn@ktslaw.com, chooker@ktslaw.com,
nchollet@ktslaw.com, lwillis@ktslaw.com, tadmin@ktslaw.com, lcrumbley@ktslaw.com,
cgenteman@ktslaw.com



Michelle Mancino Marsh